

THE LAW OFFICE OF

ELISA HYMAN, P.C.

MEMO ENDORSED

April 4, 2022

The Honorable Edgardo Ramos
United States District Court - Southern District of New York
40 Foley Square
New York, NY 10007

The application is granted. The conference scheduled for April 7, 2022 is adjourned.

SO ORDERED.



Edgardo Ramos, U.S.D.J.
Dated: April 5, 2022
New York, New York

Re: Na.S. v. New York City Department of Education, et al., 21-cv-2183 (ER)

Dear Judge Ramos:

I represent the Plaintiffs in the above-referenced case and write jointly with counsel for the Defendants to submit this joint letter respectfully requesting an adjournment *sine die* of the initial conference currently scheduled for April 7, 2022, and the corresponding Case Management Plan, for the reasons outlined below. ECF No. 20.

This is an action *inter alia* pursuant to the Individuals with Disabilities Education Improvement Act (“IDEA”), 20 U.S.C. § 1400 *et seq.*, in which Plaintiff parent alleges that Defendants failed to implement impartial hearing orders over the course of several school years with regards to her son Ni.S.¹ Plaintiff Na.S. is the parent of Ni.S., a young boy with autism who requires intensive special education services so that he can receive a free and appropriate public education (“FAPE”) as required by the IDEA. In this action, Plaintiff Na.S. alleges that Defendants failed to implement stipulations, pendency, and favorable final decisions in Impartial Hearing (“IH”) Case Nos. 168159, 174364, 184627, and 196193, concerning Ni.S.’s 2015-2016 through 2020-2021 school years (“SYs at Issue”).

The parties are interested in resolving this matter via settlement and have engaged in some early informal settlement discussions. To that end, Plaintiffs have requested information from Defendants concerning the SYs at Issue and the IH Cases, including services and payment accountings, as well as an update on the status of Na.S.’s assistive technology. Defendants have provided Plaintiffs’ counsel a record of services implemented during the applicable school years and are investigating the remaining issues. Plaintiffs submit that this information is necessary for Plaintiffs to craft a formal settlement demand – information concerning payments made and services provided in order to calculate compensatory relief and to determine the scope of other relief. The parties are optimistic that we would be able to settle this matter, without Court intervention.²

¹ Plaintiffs also bring claims pursuant to Section 504 of the Rehabilitation Act, 29 U.S.C. § 749, 42 U.S.C. § 1983 and New York law, alleging individual and systemic violations of these laws and the IDEA. Plaintiffs are also class members of the action entitled *M.G. v. New York City Dep’t of Educ.*, 13-cv-4639 (S.D.N.Y.), which alleges systemic failures to provide services to students with autism.

² Indeed, counsel for both parties are on the cusp of settling a similar IDEA case involving the provision of a student’s FAPE over the course of multiple school years.

An additional reason for the parties' request for time is that, if the case is unable to settle, Plaintiffs anticipate seeking Defendants' consent to file an amended complaint to include events which post-date the original complaint. Specifically, Plaintiffs recently received a final decision in IH Case No. 196193 and are in the process of partially appealing that decision. A decision by the State Review Office on Plaintiffs' appeal of IH Case No. 196193 is anticipated on or about the end of April, 2022. Accordingly, the parties need time for a final decision to be rendered in IH Case No. 196193, which was plead in the original complaint in this action, before further steps can be taken in this case.

For all these reasons, the parties respectfully request an adjournment of the initial conference, and creation of a Case Management Plan, *sine die*, while we attempt to resolve the action via settlement. The parties propose submitting a status report no later than May 12, 2022, as to the status of settlement and/or the need to amend the complaint.

We thank the Court for its consideration of the parties' joint requests herein.

Respectfully Submitted,
THE LAW OFFICE OF ELISA HYMAN, P.C.

By: Erin O'Connor
Erin O'Connor, Esq., Of Counsel
Counsel for Plaintiffs

cc: Sherry Glover, Esq., *Counsel for Defendants*, via ECF